

APPEAL NO. 021936
FILED SEPTEMBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing (CCH) was begun on May 28, 2002, and continued to, and completed, on June 24, 2002. The hearing officer determined that respondent 1's (claimant) compensable injury of (date of first injury), extends to include the posterior central disc protrusions pressing on the anterior thecal sac at the L4-5 and L5-S1 levels of her spine and the anteromedial aspect of the S1 nerve root bilaterally. She further determined that the claimant sustained a compensable left elbow, left hip, scalp/face, and lumbar spine injury on (date of subsequent injury), while in the course and scope of her employment; that the compensable lumbar spine injury of (date of subsequent injury), extends to include her conditions at levels L4-5 and L5-S1; and that the claimant has had disability due to the (date of subsequent injury), injury from January 17, 2002, to the date of the CCH. The appellant (carrier 1) appeals the determinations relating to the (date of subsequent injury), injury on evidentiary sufficiency grounds. Carrier 1 also requests that, if the claimant is determined to have sustained a compensable lumbar injury on (date of subsequent injury), the extent of that injury be limited to a lumbar sprain/strain. The file does not contain a response from the claimant, nor does it contain a response from respondent 2 (carrier 2). The determination as to the extent of the (date of subsequent injury), injury was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

As to carrier 1's request that we limit the claimant's compensable lumbar injury of (date of subsequent injury), to a sprain/strain, we decline to do so. The medical evidence contained in the file, and specifically noted by the hearing officer in her Statement of the Evidence, sufficiently supports that the (date of subsequent injury), injury "aggravated her problems and condition in her lumbrosacral spine, and her low back and leg symptoms worsened." We disagree that the hearing officer is attributing "the exact same conditions" to both carriers.

The hearing officer did not err in reaching the complained-of determinations. The issues of injury, extent of injury, and disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the conflicting evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of insurance carrier 1 is **PACIFIC EMPLOYERS' INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
ACE USA
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200
IRVING, TEXAS 75063.**

The true corporate name of insurance carrier 2 is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Veronica Lopez
Appeals Judge